



**City of Kingston
Information Report to Council
Report Number 21-122**

To: Mayor and Members of Council
From: Lanie Hurdle, Chief Administrative Officer
Resource Staff: None
Date of Meeting: April 6, 2021
Subject: Proposed Amendments to Kingston Economic Development Corporation Corporate By-Law

Council Strategic Plan Alignment:

Theme: Corporate business

Goal: See above

Executive Summary:

At the Kingston Economic Development Corporation (EcDev) Board of Directors (the Board) meeting on March 29, 2021, the Board reviewed and approved several updates to both Kingston EcDev's Operations and Human Resources Policy Manual as part of a regular review to ensure equitable and consistent application of the policies. In its review, EcDev tried to align its by-laws with those of Tourism Kingston.

In addition, the Board received draft amendments to EcDev's Corporate By-Law as part of a review that was requested by the Board at their December 21, 2020 meeting. These proposed amendments were initially reviewed and endorsed by the EcDev HR & Nominations Committee prior to presentation to the Board. The proposed amendments to EcDev's Corporate By-Law will be considered for approval at the EcDev Annual General Meeting on April 19, 2021.

The purpose of this report is to inform Kingston City Council of the proposed amendments to EcDev's Corporate By-Law (attached as Exhibit A) as it is anticipated that it would have an impact specifically on the nominations process.

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The proposed amendments place the full responsibility of recruiting and selecting members at large director positions on the Board of Directors with EcDev and the HR Nominations Committee. The changes remove the step of presentation of candidates for the member at large positions to the City Nominations Committee and City Council for approval. Representation of City Council in the selection and appointment will be maintained through active voting powers of the Mayor and three appointed City Councillors on the EcDev Board of Directors.

The proposed amendments also include a new clause which clarifies that the Board can vote to remove a board member based on set criteria outlined in the by-laws; and that they can also vote to make a recommendation to Council that a City Councillor be removed from the Board for those same criteria. The recommendation from the Board would then come to Council so that they may remove one Councillor and appoint another City Councillor to the Board.

The proposed amendments also ensures that a Council Director will have a seat at the EcDev's Human Resources and Nominations Committee.

City Council maintains the right to appoint four (4) directors ("City directors") to the Board, from among Council, one of which shall include the Mayor.

Recommendation:

This report is for information only.

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Authorizing Signatures:

ORIGINAL SIGNED BY CHIEF
ADMINISTRATIVE OFFICER

**Lanie Hurdle, Chief
Administrative Officer**

Consultation with the following Members of the Corporate Management Team:

Paige Agnew, Commissioner, Community Services	Not required
Peter Huigenbos, Commissioner, Business, Environment & Projects	Not required
Brad Joyce, Commissioner, Corporate Services	
Jim Keech, President & CEO, Utilities Kingston	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required
Sheila Kidd, Commissioner, Transportation & Public Works	Not required

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Options/Discussion:

Proposed amendments to Kingston Economic Development Corporation's Corporate By-Law are attached as Exhibit A to this report.

Existing Policy/By-Law:

None

Notice Provisions:

None

Accessibility Considerations:

None

Financial Considerations:

None

Contacts:

Lanie Hurdle, Chief Administrative Officer 613-546-4291 extension 1231

Donna Gillespie, Chief Executive Officer, Kingston Economic Development Corporation
613-544-2725

Other City of Kingston Staff Consulted:

John Bolognone, City Clerk

Alan McLeod, Acting Director, Legal Services

Exhibits Attached:

Exhibit A – Kingston EcDev Corporate By-law Review & Proposed Amendments

MemorandumKINGSTON ECONOMIC
Development Corporation

To:	Kingston Economic Development Board of Directors
From:	Donna Gillespie, CEO
Legal Resource:	Andrea Risk, Cunningham Swan
Date:	March 25, 2021
Subject:	Corporate By-law Review & Proposed Amendments

Background:

The Board of Directors requested a review of Corporate By-laws be undertaken at the December 21, 2020 meeting to ensure that By-laws reflected needs of the Corporation to ensure success in implementation of the new Integrated Economic Development Strategic Plan and reflected new platforms for meeting settings.

Andrea Risk from Cunningham Swan was asked to provide proposed amendments to the By-laws as a starting point for the HR & Nominations Committee discussions. Cunningham Swan was involved in the original drafting of the Corporate By-laws in 1997 and oversaw the creation of Tourism Kingston's By-laws in 2017 when the Kingston Economic Development was establishing them as a stand-alone organization.

The HR & Nominations Committee met on March 12, 2021 to review the recommendations. A motion was passed to recommend to the Board of Directors adoption of the proposed changes.

Moved by John Sheridan. Seconded by Dave Carnegie. Carried.

The proposed changes to the nominations process places the full responsibility of recruiting and selecting member at large director positions on the Board of Directors. The changes remove the added step of presentation to the City Nominations Committee and City Council for approval, which is in line with how other similar organizations like Tourism Kingston are structured. Representation of City Council in the selection and appointment of member at large directors will be maintained through active voting powers of the Mayor and three appointed City Councillors on the Board of Directors.



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Recommended Changes:

PROPOSED AMENDMENTS TO CERTAIN PROVISIONS BY-LAW NO. 1

DIRECTORS

5. Duties and Number

The affairs of the Corporation shall be managed by a board of directors who may be known and referred to as directors, trustees or governors. The board of directors shall consist of a maximum of twelve (12) directors, or such other number of directors as may be determined from time to time by special resolution.

6. Qualifications

Every director shall be a member of the Corporation, eighteen (18) years of age or older, a Canadian citizen or permanent resident, and not an undischarged bankrupt.

7. First Directors

The applicants for incorporation shall become the first directors of the Corporation whose term in office on the board of directors shall continue until their successors are elected at the first meeting of members of the Corporation.

8. Election and Term

Successors to the first directors shall be elected or appointed as follows:

- a. The City of Kingston Municipal Council shall have the right to appoint four (4) directors ("City directors") to the board of directors from among those persons elected to the City of Kingston Municipal Council, one of which shall include the Mayor of the City of Kingston. Other than the Mayor of the City of Kingston, whose appointment shall be for the duration of his or her term as Mayor, the other ~~appointees of the City of Kingston Municipal Council~~ City directors shall be appointed to the board of directors for a term of one (1) year but are eligible for reappointment, if qualified, by the City of Kingston Municipal Council;
- b. Eight (8) directors at large, ~~none of whom shall be members of Kingston Municipal Council, as recommended by the Nominations Committee of the Corporation of the City of Kingston Nominations Committee, and approved by the City of Kingston Municipal Council,~~ shall be elected or appointed, as the case may be, to the Board for a term of three (3) years. Shorter terms of one or two years are permitted to initially set up an annual rotation based on three (3) year terms.
- c. No ~~at large~~ director at large shall serve more than six (6) consecutive or

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cumulative years in office. After a five (5) year absence from the board, a director at large shall be eligible for appointment as a director for a further term.

9. Vacancies

The office of a director shall automatically be vacated:

- a. if the director becomes bankrupt or suspends payment of debts generally or compounds with creditors or makes an authorized assignment or is declared insolvent;
- b. if the director is found to be a mentally incompetent person or becomes of unsound mind;
- c. if the director by notice in writing to the Corporation resigns office, which resignation shall be effective at the time it is received by the Chairperson of the Corporation or at the time specified in the notice, whichever is later;
- d. by a director at large if, at a special meeting of members of the Corporation, a resolution is passed by at least two-thirds (2/3) of the votes cast by the members of the Corporation ~~at the special meeting removing the director any director, other than a director appointed to the board of directors from the City of Kingston Municipal Council,~~ before the expiration of the director's term of office;
- e. by a City director if, at a special meeting of members of the Corporation, a resolution is passed by at least two-thirds (2/3) of the votes cast by the members of the Corporation recommending the removal of the director before the expiration of the director's term of office and such appointment is thereafter revoked by the City of Kingston Municipal Council.
- f. if the director dies;
- g. ~~if a director is appointed by the City of Kingston Municipal Council and such appointment is revoked by the City of Kingston Municipal Council;~~
- h. if the director is convicted of a criminal offence;
- i. if the director is absent from three (3) consecutive meetings of the board of directors, subject to a resolution passed by the remaining directors of the board confirming the office of such director has been vacated; or
- j. if director ceases to be a member.

~~The Board of Directors shall recommend the removal of a City of Kingston Municipal Council appointee to the City of Kingston Municipal Council if resolution to do so is passed by at least two-thirds (2/3) of the votes cast by the members of the Corporation at a special meeting.~~



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10. Filling Vacancies

~~A vacancy occurring in the board of directors among directors appointed by City of Kingston Municipal Council shall be filled by City of Kingston Municipal Council.~~

~~A vacancy occurring in the board of directors among at large directors shall be filled as follows:~~

~~a. The board of directors and the Nominations Committee of the Corporation will be responsible for monitoring the terms of board members and identifying vacancies (both end of term and midterm). The Secretary will maintain records setting out: a) the end date of each director's term; and b) the date upon which a person will have served six consecutive or cumulative years as a director.~~

~~b. The Chair will notify the Clerk of the City of Kingston Municipal Council of midterm vacancies as they occur and such vacancies may be filled for the~~

~~balance of the term created by the vacancy using the following procedures which apply to end of term vacancies.~~

~~c. Three months before the end of each calendar year, the Chair will provide the Clerk of the City of Kingston Municipal Council with individually signed expressions of interest from each current board member whose term is ending and who is eligible and wishes to be re-appointed for another term. Such current board members will be considered by the City of Kingston Municipal Council and its Nomination Committee for re-appointment to the board of directors.~~

~~d. By the beginning of October of each year, the Nominations Committee for the Corporation will provide the Clerk of the City of Kingston with a description of the desired skill set required on the board of directors to fill vacant positions.~~

~~e. The City of Kingston will advertise for applicants who meet the desired skill sets to apply for appointment to the board of directors.~~

~~f. Applications for appointment to the board of directors will be distributed to both the Nominations Committee for the City of Kingston Municipal Council and the Nominations Committee for the Corporation for review.~~

~~g. The board of directors through the Nominations Committee of the Corporation will provide input to the Nominations Committee for the City of Kingston Municipal Council in respect to those persons who apply to fill vacancies on the board of directors.~~

~~h. The Nominations Committee for the City of Kingston Municipal Council will make a recommendation on appointments to the board of directors to the City of Kingston Municipal Council.~~

~~i. The names of applicants approved by City of Kingston Municipal Council for~~

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~~appointment to the board of directors will be sent to the members of the Corporation for consideration and appointment to the board of directors.~~

~~j. In the event that a director is appointed to fill a vacant position partway through the term vacated by a departing director, the appointment will expire at the end of the original term.~~

A vacancy of one of the four (4) City directors shall be filled by an appointment made by the City of Kingston Municipal Council.

A vacancy of one of the eight (8) directors at large shall be filled as follows:

- a. The board of directors and the HR Nominations Committee will be responsible for monitoring the terms of the eight (8) directors at large and identifying vacancies (both end of term and midterm). The Secretary will maintain records setting out: (1) the end date of each such director at large's term; and (2) the date upon which a person will have served six consecutive or cumulative years as director at large.
- b. The HR Nominations Committee shall advertise for applicants who meet the desired skill sets to apply for election to the board of directors to fill any vacancy identified in this section and receive such applications.
- c. Applications are to be reviewed by the HR Nominations Committee and the HR Nominations Committee may provide recommendations for nominees. Such nominees will be reviewed and such vacancies will be filled as follows:
 - i. if an interim vacancy occurs among the directors at large during the term for which they have been elected, the vacancy may be filled by at a meeting of directors by the majority vote of directors (until the next annual general meeting of members) by any person duly qualified, and at the next annual general meeting of members such vacancy shall be filled by election by the majority vote of the voting members for the portion of such term still unexpired; and
 - ii. end of term vacancies shall be filled at the next annual meeting of the members (or at any meeting of the members duly called for this purpose) by the majority vote of the voting members.

11. Human Resources / Nominations (HR Nominations) Committee

The board of directors may appoint from among their number a HR Nominations Committee which shall consist of at least five (5) members of the board of directors, one of which shall be the Mayor of the City of Kingston or one of the other three (3) representatives appointed by the City of Kingston Municipal Council to the board of directors.

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Such Committee may formulate its own rules of procedure, subject to such regulations or directions as the board of directors may from time to time make. Any Committee member may be removed by resolution of the board of directors. Three (3) members of the Committee shall constitute a quorum for the transaction of business. The HR Nominations Committee shall:

- a. have the Chair of the Board serve as the Committee Chair;
- b. oversee the recruitment, selection, orientation, and performance management process of the Corporation's Chief Executive Officer;
- c. meet at least once per year to review the Human Resources Policy Manual and the By-Laws of the Corporation, and recommend amendments if necessary;
- d. in accordance with the procedures outlined in paragraph 10. (Filling Vacancies), conduct a transparent and public application process to fill vacancies on the board of directors, and;
- e. carry out such other functions as may be delegated to it by the board of directors from time to time.

MEETINGS OF DIRECTORS

15. Place of Meeting

Meetings of the board of directors may be held either at the head office or at any place within the City of Kingston as designated by the board of directors. In the event of a meeting held by telephone or video, the place of meeting will be the location from where the meeting is hosted.

22. Telephone/Video Participation

If all of the directors of the Corporation present at or participating in a meeting consent, a meeting of directors may be held by means of such telephone, video, electronic or other communication facilities as permit all persons participating in the meeting to hear each other simultaneously and instantaneously, and a director participating in such meeting by such means is deemed to be present at that meeting.

Next Steps:

Board of Directors to review recommendations and proposed amendments to be accepted at Annual General meeting on April 19, 2021. Changes to the Corporate By-laws must be voted on at an All-Members Meeting.